



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 33965724

Date: OCT. 04, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a civil engineer specializing in the field of water resources engineering, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner met the initial evidence requirements for this classification through evidence of either a major, internationally recognized award or meeting at least three of the ten evidentiary criteria under 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

**I. LAW**

To establish eligibility as an individual of extraordinary ability, a petitioner (or anyone on the petitioner's behalf) must establish that they:

- Have extraordinary ability in the sciences, arts, education, business, or athletics;
- Seek to enter the United States to continue work in their area of extraordinary ability; and that
- Their entry into the United States will prospectively substantially benefit the United States.

Extraordinary ability must be demonstrated by evidence of sustained national or international acclaim as well as extensive documentation that their achievements have been recognized in the field. Section 203(b)(1) of the Act.

The implementing regulation further states that the term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” A petitioner can demonstrate that they meet the initial evidence requirements for this immigrant visa classification through evidence of a one-time achievement (that is, a major, internationally recognized award). If such evidence is unavailable, then they must alternatively provide evidence that meets at least three of the ten listed criteria, which call for evidence about lesser awards they may have received, published material about them in qualifying media, and their authorship of scholarly articles, among other types of evidence. 8 C.F.R. §§ 204.5(h)(2),(3).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination, assessing whether the record shows that the individual possesses the acclaim and recognition required for this highly exclusive immigrant visa classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner is a civil engineer who has completed water and sewage engineering projects and conducted research in hydrology and sediment transport. He holds a Ph.D. in civil engineering and engineering mechanics from the [REDACTED] and states that he plans to use his skills in water resource engineering to find suitable employment in the United States.

Because the Petitioner has not indicated or established that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined that the Petitioner met two of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to his authorship of scholarly articles and his participation as a judge of the work of others in his field. We agree with the Director’s conclusions regarding these criteria. On appeal, the Petitioner asserts that he also meets the evidentiary criteria relating to his membership in associations in his field, original contributions of major significance in his field, and his leading or critical roles for organizations having distinguished reputations. After reviewing all of the evidence in the record, we conclude that he does not meet the initial evidentiary requirements for classification as an individual of extraordinary ability.

*Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

8 C.F.R. § 204.5(h)(3)(ii)

To meet this criterion, a petitioner must establish that they are a member in an association, that the association is in their field of endeavor, that it requires outstanding achievements of its members, and that the requirement for outstanding achievements is judged by recognized national or international experts in their fields.

The Director acknowledged the evidence of the Petitioner's membership in the American Society of Civil Engineers, the terrestrial working group of the Community Surface Dynamics Modeling System, and the Iraqi Engineers Union (IEU) in her decision. But the Director concluded that the record does not include sufficient evidence about the first two associations and their requirements for membership to show that they require outstanding achievements, and that the bylaws of the IEU stated membership requirements which did not include outstanding achievements.

On appeal, the Petitioner generally refers to his previously submitted evidence and asserts that the Director's decision regarding this criterion was in error, but he does not identify any specific errors of law or fact made by the Director, or point to specific evidence in the record to refute the Director's conclusions. For example, the Director quoted the specific individual membership requirements from Article 13 of the IEU's bylaws in her decision, and noted that requirements such as a minimum level of education are generally not considered to be outstanding achievements. On appeal, the Petitioner does not address the requirements, but focuses on requirements for "engineering specialization departments" without referencing a specific article in the bylaws or explaining its relevance to this criterion. In addition, while he asserts that his memberships are indicative of and demonstrate his outstanding achievements and recognition by national and international experts, the plain language of this criterion demands evidence that the associations *require* outstanding achievements *as a condition* for membership. As the record does not include such evidence, we concur with the Director's conclusion that the Petitioner does not meet this criterion.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v)

To meet the requirements of this criterion, a petitioner must establish that not only have they made original contributions, but that the contributions have been of major significance in their field of endeavor. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See Visinscaia*, 4 F. Supp. 3d at 134-35.

The record includes multiple types of evidence submitted in support of this criterion, including copies of articles co-authored by the Petitioner which were published in scientific journals and at conferences, a listing of the number of times those papers and presentations were cited by other researchers in their own published work, and reference letters from the Petitioner's peers, colleagues, and other experts in the field of civil engineering. In her decision, the Director concluded that while the articles showed that the Petitioner has contributed original research to his field, the Petitioner did not demonstrate those contributions were of major significance. Specifically, she noted that the Petitioner did not show that the citations to his published research was indicative of major significance, and that the reference letters did not provide sufficient detail regarding the Petitioner's contributions and their impact or influence on other researchers in the civil and water resources engineering fields.

Regarding the evidence of citations by other researchers to his published work, the Petitioner asserts on appeal that the quantity of these citations alone does not accurately reflect the significance of his contributions to the field of water resource engineering. He points to a letter from K-L-, who taught the Petitioner and served on his doctoral dissertation committee, who writes that the narrowness of the field of sediment transport has limited the number of citations to his work. We note, however, that

both the Petitioner, in his personal statement, and Professor J-D-, his doctoral advisor at [ ] identify his field as water resources engineering. Also, the Petitioner asserts in his appeal that his field should be construed broadly. While we acknowledge that researchers typically focus on a narrow area within their field, we will not consider the Petitioner's field to be occupied only by those who share this narrow focus on sediment transport. To hold otherwise would render meaningless the requirement that a petitioner be among the small percentage of the very top of their field by allowing them to narrow their field until they rank among the top of a small group in that "field." See *Buletini v. INS*, 860 F.Supp. 1222, 1229 (E.D. Mich. 1994) (finding that the individual's field was medical science rather than nephrology). Accordingly, we consider the evidence of the quantity of citations to the Petitioner's published research on sediment transport as a factor in determining whether his contributions to the field of water resources engineering have been of major significance.

In addition, contrary to the Petitioner's assertion on appeal, the Director did not rely solely on the quantity of citations to his work in making her determination under this criterion. Several of the reference letters in the record were considered and discussed in the decision, as was the evidence of the Petitioner's work on feasibility studies for water and sewage projects in Iraq. The Petitioner asserts that the evidence pertaining to the projects, which includes a letter from the [ ] [ ] recognizing his and another engineer's work on the feasibility studies, shows the significance of this contribution and his "practical expertise in addressing critical infrastructure challenges." But the record includes no further information about this organization and only a partial copy of the one of the feasibility studies, and thus does not support the significance of this recognition or the contribution of these reports to the field of water resource engineering. And while the Petitioner's ability to draft these studies and contribute to engineering projects is shown, his skills and expertise are not themselves contributions which have been demonstrated to remarkably impact or influence the field.

Regarding his leadership of a river monitoring project at [ ] the Petitioner asserts that this shows his ability to "conduct groundbreaking research with practical implications." He focuses on appeal on the reference letter from K-L-, who writes that the Petitioner "has led a new direction in examining flow and sediment transport through vegetated areas." However, the professor further notes that this work "will become increasingly valuable" and that the Petitioner "has the capability to fill that gap" of aging researchers soon to leave the field. The letter's focus on the Petitioner's potential future contributions does not aid in demonstrating that he has already made significant contributions to the field.

Another reference letter emphasized by the Petitioner on appeal was written by U-A-, a researcher at [ ] with whom he has collaborated. The Petitioner asserts that the Director did not acknowledge "the immediate and practical significance" of his research, noting U-A-'s statement that he "immediately began to contribute by coming up with robust and smart solutions." However, the writer does not provide details regarding these solutions or whether or how they were implemented, either within the research project discussed or in the broader field of water resource engineering, and thus does not support their significance. And while the Petitioner criticizes the Director for "dismissing the potential long-term impact of [the Petitioner's] research," this criterion requires evidence of contributions which an individual has already made. More broadly, eligibility for the requested classification must be established at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). An evaluation of potential prospective contributions cannot establish that a petitioner meets this criterion.

For all of the reasons discussed above, we agree with the Director's determination and conclude that the Petitioner has not established that he meets this criterion.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii)*

To meet the requirements of this criterion, a petitioner must first establish that they have served in a role that was either leading or critical for an organization or establishment, or a department or division thereof, and that the organization, establishment, department, or division has a distinguished reputation. Evidence of a leading role may include a title and matching duties, and should indicate that the petitioner is or was a leader. Evidence supporting a critical role should show that the petitioner has contributed in a way that is of significant importance to the outcome of the organization's or establishment's activities, or those of a division or department. Second, a petitioner must show that the organization or establishment, or department or division thereof, for which the leading or critical role was performed has a distinguished reputation. Factors may include the size, longevity, media coverage, awards, and industry rankings of the organization, establishment, department, or division. *See generally 6 USCIS Policy Manual F.2(b)(1).*

Here, the Petitioner focuses on his role on the [redacted] while a doctoral student at [redacted] as well as his role within the civil engineering department at the [redacted] in Iraq. Regarding the former, he highlights both letters from J-D-, one of which was written to nominate him as for the outstanding graduate student award in [redacted] department of civil engineering. The letters affirm the Petitioner's leading role on this project, but as stated by the Director, a project is not an organization or establishment as contemplated under this criterion. This evidence does not show that the Petitioner's leadership of the project evidences a leading or critical role for the department. Neither J-D-'s letters nor the others from professors at [redacted] show that among research projects conducted in the department at the time, the Petitioner's leadership of the [redacted] project was of significant importance to the outcome of the department's activities. Nor do the letters suggest that the Petitioner, as a doctoral student, occupied a leadership role for the overall department.

As support for his asserted qualifying role at [redacted] the Petitioner highlights the letter from Dr. D-A-M-J-, who oversees the engineering consultancy arm of the university. Dr. J- notes that the Petitioner, since 1998, has conducted several engineering projects for water and sewage systems, building sanitation systems, and swimming pools. He lists ten of these projects, and states that the projects completed by [redacted] engineering consultancy "have a significant impact on both helping our community and raising fund for our university." Although he states that the Petitioner's "strong leadership quality" led to increased work and thus greater funds for the university, Dr. J- does not provide specific details on this point or indicate that the extent of the increased project work due to the Petitioner was of significant importance to [redacted] activities.

In addition, even if the Petitioner had shown that he played a leading or critical role for either organization, he has not established that either [redacted] has a distinguished reputation. The evidence consisted of rankings showing [redacted] engineering department ranked [redacted] presumably among universities in the United States, and [redacted] world university ranking at greater than 1501. Standing alone, this evidence is insufficient to show that either organization has distinguished itself amongst universities, either on a national or global basis.

Because the Petitioner has not established that he performed in a leading or critical role for an organization or establishment having a distinguished reputation, we conclude that he does not meet this criterion.

### III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we have reviewed the entire record and conclude that it does not establish that the Petitioner has the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for those progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and that he is one of the small percentage who have risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

**ORDER:** The appeal is dismissed.